(1) Supreme Court, U.S.
FILED
00-293 JUN 3 2000

No. _____

In The

SUPREME COURT OF THE UNITED STATES

IN RE: HARRY W. VINSON
BRAD VINSON

Petitioners

On Petition For Writ of Certiorari To The United States Court of Appeal For the Fifth Circuit

PETITION FOR WRIT OF CERTIORARI

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17pp

QUESTION PRESENTED

Whether the Fifth Circuit Court of Appeals abused its discretional authority and erred in denying Petitioners' writ of mandamus and rehear for immediate relief, by allowing an unconstitutional order issued by a U.S. District Judge, to stand, closing the courts to Petitioners, denying them their right to due process and equal protection of the law, when Petitioners always pay the court cost and have never petitioned the courts as a pauper.

PARTIES TO THE PROCEEDING

The other party to the proceeding not named in the caption is United States Northern District Judge Neal B. Biggers, Jr.

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PETITION FOR WRIT OF CERTIORARI

Petitioners Harry W. Vinson and Brad Vinson, prays that a writ of certiorari issue to review the judgment of The United States Fifth Circuit Court of Appeals entered in this matter on April 3, 2000 denying a writ of mandamus to immediately re-open the courts to petitioners a constitutional right they enjoy by and through Amendments I, V, VII, IX, and XIV.



OPINIONS BELOW

IN RE: HARRY W. VINSON, BRAD VINSON, Petitioners No. 99-60876, Petition For Writ of Mandamus, denied February 1, 2000 unreported (App. 1).

IN RE: HARRY W. VINSON, BRAD VINSON, Petitioners No. 99-60876, Petition For Rehearing denied, April 3, 2000, unreported (App. 3).



JURISDICTION

The per curiam opinion of the court of appeals was entered February 1, 2000 and a timely petition for rehearing was denied April 3, 2000. The petition for a writ of certiorari was filed June 30, 2000. The jurisdiction of this Court is invoked under 28 U.S.C. §1254(1); U.S.A. Constitution Article III §1 and §2 and Rules of The Supreme Court of The United States Rule 10(a).



CONSTITUTIONAL PROVISIONS

USA Constitution Bill of Rights

AMENDMENT I ...

"to petition the Government for a redress of grievances".

AMENDMENT V...

"without due process of law"

AMENDMENT IX...

"The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people."

AMENDMENT XIV ...

"due process of law; nor deny to any person within its jurisdiction the equal protection of the laws".

USA Constitution Article III §2...

"The judicial power shall extend to all cases, in law and equity arising under the Constitution, the laws of the United States..."



STATEMENT OF THE CASE

Petitioners filed a writ of mandamus with the Fifth Circuit Court of Appeals December 13, 1999, Cause No. 99-60876, for the unconstitutional closing of the courts to Harry W. Vinson and Brad Vinson by U.S. District Judge Neal B. Biggers, Jr. without any Constitutional authority nor did he cite any. Not only was the

U.S. District Judge's wanton egregious overt acts without constitutional authority, it was in violation of Federal Rules of Civil Procedure Rule 77 and the Uniform Local Rules of The United States District Court For The Northern and Southern District of Mississippi Rule 77.1(a) Court always open

The Fifth Circuit Court of Appeals docketed the case December 14, 1999.

The per curiam opinion of the panel of justices February 1, 2000, denied Petitioners' writ of mandamus on the grounds that they had failed to exhaust their appeals in the lower court. This violation was so egregious that it demanded a writ of mandamus be filed with the appellate court for immediate relief as there was no remedy for an appeal in the lower court. The courtroom doors had been closed to Harry W. Vinson and Brad Vinson. The writ of mandamus was for immediate relief as Petitioner Harry W. Vinson has grievances pending and was denied the right to file his lawsuits by the clerk of the court on orders from the U.S. District Judge Biggers and petitioner always pays the filing fee, court cost and has never asked or petitioned the court as a pauper. To this date Petitioner Harry W. Vinson has not been allowed in the court to file his lawsuit for the redress of grievance done to him in his lands, goods, person or reputation.

Petitioners timely filed a petition for rehearing where the Fifth Circuit Court of Justices continued the egregious overt act of U.S. District Judge Neal B. Biggers, Jr. by denying Petitioners'

rehear petition April 3, 2000.

The wanton, egregious and overt acts of these justices is on-going and continuous and we pray for relief from this honorable court of last resort.



REASON FOR GRANTING THE PETITION FOR A WRIT OF CERTIORARI

A. SUMMARY OF THE ARGUMENT

Petitioners enjoy Rights under the Constitution, especially the right to petition the government for a redress of grievance and the expectation that the courts will always be open to them for a grievance done to them in their lands, goods, person or reputation. The expectation that the courts will always be open include the Right to due process, the Right to a jury trial, the Right to due process and equal protection of the law and all other rights retained by the people.

B. ARGUMENT

This case presents an important question for the Supreme Court of The United States, the court of last resort, to hear and issue forthwith an immediate order as the Constitutional Rights Petitioners enjoy have been destroyed by an unconstitutional order issued by a U.S. District Judge and left to stand by the actions of the Fifth Circuit Court of Appeals. In Article III Section 1 and 2 of the Constitution of The United States of

America, it mandates upon the Supreme Court of The United States and all inferior courts that the judiciary power extends to all cases arising under the Constitution which in turn mandates that Petitioners have a Constitutional Rights to go into the inferior courts when their Constitutional Rights have been violated and sue.

The Civil Rights Act passed by Congress Title 42 U.S.C. §1983 allows Petitioners to go into the federal courts and file an action when Constitutional Rights are violated. 28 U.S.C. §1331 also allows Petitioners to go into the inferior courts and sue for Constitutional violations, so does 28 U.S.C. §1343 and 28 U.S.C. §2072. Federal Rules of Civil Procedure Rule 77(a) also allows Petitioners to go into the inferior courts and sue for Constitutional violations.

In *Sibback v Wilson & Company*, 312 U.S. 1; *U.S. v Sherwood NY*, 312 U.S. 584; *U.S. v Lombards*, 241 U.S. 73; *Audley McIntosh v Thomas Antonio et al*, 71 F.3d 29; *Casaduc v Diaz*, 117 F.2d 915; and *Freeman v Giacoma Costa Fu Andrea*, 282 F.Supp. 525 (1968), all rendered by the Supreme Court and other inferior courts agrees that Petitioners have the Right to go into inferior courts and sue for Constitutional violations, all secured by The Constitution of The United States Article III Section 2, Bill of Rights Amendment I,V, VII, IX and XIV.

The inferior courts under Article III Section 2 of USA Constitution would be the Federal District Court and the Court of Appeals.

The Fifth Circuit Court of Appeals abused it discretion authority and erred in denying Petitioners mandamus and rehear for immediate relief, by allowing to stand, an unconstitutional order issued by a U.S. District Judge, denying Petitioners' due process and equal protection of the law, when Petitioners always pay the court cost and filing fees and have never petitioned the court as a pauper.

Petitioners have cases pending before the federal district courts for Constitutional violations and when Petitioner Harry W. Vinson tried to petition the federal district court for other constitutional violations done to him, the clerk of the court refused to file the lawsuit and accept the filing fees on an unconstitutional order issued by the U.S. Federal District Judge with no constitutional authority. There is no place for Petitioner to go for a redress of grievance, as the courts have been closed to him, in violation of his Constitutional Rights.

Petitioners have never sought a privilege from the federal district court or the court of appeals or the Supreme Court of The Untied States. Petitioners always pay the court cost and all expenses for filing.

The Fifth Circuit Court of Appeals was mandated as an inferior court to issue an immediate mandamus to the federal district court to open the court and keep it open to Petitioners or any other Petitioner whose Constitutional Rights have been violated. This court of last resort knows that in the United States of America every

second, every minute, every hour and every day Constitutional Rights are being violated and their only redress is in the federal courts and if the courts are closed to the people and the people have no remedies at law, then the tyrants will now have a free hand to continue the violations to all the people, and when the federal district judges aid and abet such violations they become a party to the violations, the aggressions and suppressions of the people. If this court of last resort does not act immediately to right the wrong done and the courts remain closed to the people and this unconstitutional action is allowed to stand, unanswered and unchallenged and the court of last resorts remains silent on this matter then it could spread throughout the country and the United States of America could become a barbaric country with no law, social order or justice.

CONCLUSION

For all the foregoing reasons, The Supreme Court of The United States, the court of last resort, should forthwith grant the writ of certiorari immediately and issue an order to the lower court to open the courts to Petitioners, if this court fails to act promptly in this matter and should remain silent and let the unconstitutional order stand unchallenged and unanswered, then nobodies life, liberty or property is secure in North Mississippi and the people will not enjoy the pursuit of happiness and the freedom of the republic of the United States of America.

Respectfully submitted,

Harry W. Vinson
Brad Vinson
P. O. Box 791
New Albany, MS 38652

in propria persona

APENDIX A

IN THE UNITED STATES COURT OF
OF APPEALS FOR THE FIFTH CIRCUIT

No. 99-60876
USDC No. 1:99-CV-98

In Re: Harry W. Vinson; Brad Vinson
Petitioners

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Petition for a Writ of Mandamus
to the United States District Court
for the Northern District of Mississippi

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Before GARWOOD, WIENER, and BENAVIDES,
Circuit Judges.

BY THE COURT:

Harry W. Vinson and Brad Vinson have filed a pro se petition for a writ of mandamus requesting that we direct Chief Justice Neal B. Biggers, Jr. to "open the court" to them. The district court's final judgment in USDC 1:99-CV-98 bars the petitioners from filing any other pleadings in the Northern District of Mississippi without the express permission of the court. The Vinsons allege that they have traveled to the Aberdeen, Mississippi federal courthouse and attempted to file another suit, but that the clerk refused to file it because of the bar in 1:99-CV-98.

The mandamus remedy is an extraordinary

one, granted only in the clearest and most compelling cases in which a party seeking mandamus shows that no other adequate means exist to attain the requested relief and that the right to issuance of the writ is "clear and indisputable." *In re Willy*, 831 F.2d 545, 549 (5th Cir. 1987). Mandamus is not a substitute for appeal. Id. The Vinsons have an adequate remedy, the appeal of the decision in 1:99-CV-98. In fact, that appeal is now pending in this court. Therefore, mandamus is inappropriate.

The petition for a writ of mandamus is DENIED.

file date: February 1, 2000

APPENDIX B

IN THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

No. 99-60876

In Re: Harry W. Vinson; Brad Vinson
Petitioners

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Petition for a Writ of Mandamus
to the United States District Court
for the Northern District of Mississippi

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ON PETITION FOR REHEARING

Before GARWOOD, WIENER, and BENAVIDES, Circuit Judges.

PER CURIAM:

IT IS ORDERED that petitioners' petition to file petition for rehearing treated as a motion for leave to file petition for rehearing out of time is GRANTED. IT IS FURTHER ORDERED that the petition for rehearing is DENIED.

ENTERED FOR THE COURT:
/s/
FORTUNATO P. BENAVIDES
United States Circuit Judge

REHG-21
file date: April 3, 2000